

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:99-CR-49-1-F1

UNITED STATES OF AMERICA,

v.

CLAUDE WENDELL BELLAMY,
Defendant.

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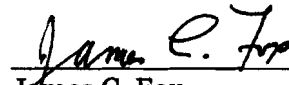
ORDER

On June 15, 2010, the Fourth Circuit Court of Appeals issued a Judgment in the case, *United States v. Claude Wendell Bellamy*, No. 10-6232, on its unpublished opinion in that case denying Bellamy a certificate of appealability after having “independently reviewed the record and conclud[ing] that Bellamy has not made the requisite showing,” *id.*, and denying authorization for Bellamy to file a successive § 2255 motion, on Bellamy’s appeal of this court’s order [DE-269] denying his motion for relief pursuant to Rule 60(b)(3), (d)(3), [DE-268]. The instant motion [DE-281] again seeks relief from his conviction and sentence pursuant to Rule 60(b), on grounds that are appropriate instead for a § 2255 motion. Bellamy continues to allege prosecutorial misconduct, but his factual bases this time are slightly different. Nevertheless, he still faces the same jurisdictional and procedural obstacles to another merits review of his conviction.

The court refers to the Court of Appeals’ unpublished opinion in No. 10-6232, *see* [DE-279], and ADOPTS the rationale expressed therein for DENYING Bellamy’s latest “Rule 60(b)” motion [DE-281]. The court also declines to issue a certificate of appealability because Bellamy has not made a substantial showing of the denial of a constitutional right by demonstrating that reasonable jurists would find that any assessment of his constitutional claims by this court is debatable or wrong, and that any dispositive procedural ruling by this court likewise is debatable. *See id.*, citing *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003).

SO ORDERED.

This the 30th day of June, 2010.



James C. Fox
Senior United States District Judge